

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

MICHAEL P. and SHELLIE GILMOR,)
et al.,)

Plaintiffs,)

vs.)

PREFERRED CREDIT CORP., et al.,)

Defendants.)

Case No. 10-0189-CV-W-ODS

ORDER AND OPINION DENYING DEFENDANTS' MOTION FOR CLARIFICATION

On October 1, 2010, the Court issued an Order designed to address certain outstanding issues and establish a schedule for the case. In Section 3, the Court addressed an issue that had been raised informally by "defendants who were added after the class was certified," who contended the Plaintiffs must "recertify" the class as to them. The Court disagreed and concluded by advising that "[i]f the additional defendants believe the class should be decertified then it is incumbent upon them to file a motion and set forth the reasons why such relief should be granted."

The affected defendants have filed a Motion for Clarification, which really asks the Court to change its decision. They argue their Due Process rights will be violated if they are deprived of a meaningful opportunity to oppose certification. This argument is a red herring: the Court did not deprive these defendants of notice and an opportunity to oppose certification. All the Court held was that their "opportunity" will take the form of a Motion to Decertify, and if they do not take that opportunity they are subject to the state court's Class Certification Order. Any "deprivation" will be a result of the defendants' decision not to seek decertification.

The Motion for Clarification (Doc. # 81) is denied.

IT IS SO ORDERED.

DATE: December 10, 2010

/s/ Ortrie D. Smith
ORTRIE D. SMITH, JUDGE
UNITED STATES DISTRICT COURT